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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SCOTT PETERSON, Individually and
as Trustee for the R. C. HILL TRUST,

Plaintiff,

v.

LINFIELD COLLEGE,
an Oregon non-profit corporation,

Defendant.

Civil No. 01-1059-FR

OPINION AND ORDER

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Attorneys for Defendant

FRYE, Judge:

The matter before the court is the plaintiff's motion to strike defenses from answer
(#17).

21

1 **ALLEGATIONS OF THE PLEADINGS**

2 The plaintiff, Scott Peterson, is an individual with his residence in the State of New
3 York. The plaintiff is a trustee of the R. C. Hill Trust and a direct descendant and heir of
4 R. C. Hill.

5 In the late 1880's, R. C. Hill acquired four or more scholarships to attend the pre-
6 decessor to Linfield College. Four certificates were issued numbered 33, 34, 35 and 36.
7 Each of the four certificates states that it entitles "R. C. Hill, his heirs or assigns to send to
8 the said McMinnville College one scholar forever, who shall have all the privileges and
9 benefits set forth in the foregoing scholarship specifications of said College." Exhibit 1 to
10 the Complaint.

11 R. C. Hill died in 1890, and his estate was probated in Linn County, Oregon. In
12 1929, with the approval of the Linn County Probate Court, the beneficiaries of R. C. Hill
13 transferred all of their interests in the certificates to a trust to administer the certificates.

14 R. C. Hill and his heirs sent various family members and friends to Linfield College
15 utilizing the certificates in lieu of tuition. At some point, Linfield College limited the
16 value it would allow to be credited for each certificate. The most recent value allowed by
17 Linfield College is a \$500 credit that was granted to a student in 1998. Linfield College
18 refuses to honor each of the certificates for the full value of tuition for each student desig-
19 nated by the trustee. Tuition at Linfield College is approximately \$20,000 per year per
20 student, making four certificates worth approximately \$80,000 per year.

21 The plaintiff alleges three claims for relief. The first claim for relief, entitled
22 "Declaratory Judgment," alleges that the court should grant a judgment to the plaintiff
23 declaring that the trust is fully empowered to exercise the certificates, and that defendant
24 Linfield College must grant full tuition credit to each and every student so designated by
25 the trustee.

26 ///

1 The second claim for relief, entitled "Equitable Relief," was dismissed by the court
2 in a prior order filed on November 6, 2001.

3 The third claim for relief, entitled "Breach of Agreement," alleges, in part, that the
4 "[d]efendant has failed and refused to honor the certificates for their appropriate value
5 currently and for at least the last six years, thereby depriving the trust of the ability to offer
6 scholarships." Id.

7 The plaintiff prays the court for a judgment "[d]eclaring that the R. C. Hill Trust is
8 empowered to exercise the certificates, and that defendant Linfield College must grant full
9 tuition credit to each and every student so designated by the trustee," as well as certain
10 other equitable relief and monetary relief. Id. at 6.

11 The defendant's second affirmative defense states that "[t]he 'R.C. Hill Trust' is
12 invalid and void because it violates the Rule Against Perpetuities." Answer, Affirmative
13 Defenses and Counterclaims of Defendant Linfield College, p. 3. The defendant's third
14 affirmative defense states that, "[w]ithout waiver of the matters alleged in its Second
15 Affirmative Defense above, the 'R.C. Hill Trust' does not have title to the Scholarship
16 Certificates or the right to direct their use because the ownership interest of Ella V. Ruegg
17 (Kittridge), one of the direct descendants of R.C. Hill, and the devisee of a one-seventh
18 interest in said Scholarship Certificates under the Will of R.C. Hill, was not transferred
19 into the purported 'R.C. Hill Trust.'" Id.

20 **CONTENTIONS OF THE PARTIES**

21 The plaintiff moves the court to strike the second and third affirmative defenses in
22 the defendant's answer on the grounds that they are insufficient or immaterial. The plaintiff
23 contends that defendant Linfield College has no capacity to attack the validity of the R.C.
24 Hill Trust because Linfield College it is not an heir, beneficiary, transferee or creditor of
25 the trust.

26 The defendant contends that it has the right to challenge and to defend against the

1 allegation by the plaintiff that "[t]he R. C. Hill Trust is the proper owner and holder of the
2 certificates." Complaint, p. 4, ¶ 14.

3 **APPLICABLE LAW**

4 Rule 12(f) of the Federal Rules of Civil Procedure provides, in relevant part, that
5 "[u]pon motion . . . the court may order stricken from any pleading any insufficient defense
6 or any redundant, immaterial, impertinent, or scandalous matter."

7 **RULING OF THE COURT**

8 The plaintiff prays the court for a judgment "[d]eclaring that the R. C. Hill Trust is
9 empowered to exercise the certificates, and that defendant Linfield College must grant full
10 tuition credit to each and every student so designated by the trustee," as well as certain
11 other equitable relief and monetary relief. Complaint, p. 6. The court cannot conclude at
12 this stage in the proceedings that ownership of the certificates is entirely immaterial to the
13 resolution of the issues presented in the complaint. The court declines to strike the second
14 and third affirmative defenses at this stage in the proceedings.

15 IT IS HEREBY ORDERED that the plaintiff's motion to strike defenses from
16 answer (#17) is DENIED.

17 DATED this 4 day of February, 2002.

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HELEN J. FRYE
United States District Judge